

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
MODELLBAHN OTT HOBBIES, INC., D/B/A/  
SUPREME HOBBIES,

Plaintiff,

- against -

VELCRO USA, INC.; AMERICAN TOMBOW,  
INC.; RUBIKS BRAND, LTD.; MATTEL,  
INC.; KOALA TOOLS, LLC; YELLOW BRAND  
PROTECTION; and INCOPRO LIMITED.,

Defendants.

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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 7/19/21

20 Civ. 03526 (LLS)

OPINION & ORDER

On May 20, 2021, the Court issued an Opinion and Order converting defendants Incopro and Mattel's motion to dismiss to a motion for summary judgment on the single issue of whether the claims against them are barred by the applicable one-year statute of limitations. See Dkt. No. 75 at 8-9. In the Order, the Court directed the parties to submit additional evidence or argument in support of dismissal on that basis. Id. at 10-11.

On June 17, 2021, defendants Incopro and Mattel filed a supplemental memorandum of law, attaching documents and sworn testimony demonstrating that on December 24, 2018, over a year prior to the May 7, 2020 filing of the complaint, defendant Incopro submitted an infringement complaint to Amazon on behalf of its client Mattel regarding the sale of plaintiff Supreme Hobbies' products relating to Mattel's "American Girl Doll". See Dkt. Nos. 76, 77. The December 2018 infringement complaint was the basis of plaintiff's defamation and tortious interference claims against Incopro and Mattel. Id.

While it was given the opportunity to do so, plaintiff has

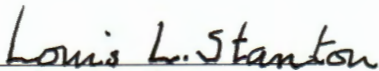
filed no Opposition to defendants' brief. Therefore, there is no genuine dispute of fact regarding the submission date of the infringement complaint. Because that complaint was published to Amazon on December 24, 2018, plaintiff's claims are untimely. See Kamdem-Ouaffo v. Pepsico, Inc., 160 F. Supp. 3d 553, 571 (S.D.N.Y.), aff'd, 657 F. App'x 949 (Fed. Cir. 2016) ("New York Civil Practice Law and Rules ("CPLR") § 215(3) requires that an action for defamation be commenced within one year, that is, within one year of the original publication of the statements.") (internal citations and quotation marks omitted).

#### CONCLUSION

The claims against defendants Incopro and Mattel are dismissed.

So Ordered.

Dated: New York, New York  
July 19, 2021

  
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Louis L. Stanton  
U.S.D.J.